

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

GARY EMMONS,)
and)
DEBORAH EMMONS,)
Plaintiffs,)
vs.) Case No. 1:10 CV 41 RWS
BRIDGESTONE AMERICAS TIRE)
OPERATIONS, LLC., et al.,)
Defendants.)

MEMORANDUM AND ORDER

Plaintiffs filed this lawsuit alleging Mr. Emmons was severely injured when a multi-piece wheel that was attached to his truck exploded while he was tightening a lug nut. This matter is before me on Defendants Goodyear Tire & Rubber Company and Hayes Lemmerz International, Inc.'s Motion for Leave to File Third Party Complaint [#105] and Defendants Bridgestone Americas Tire Operations, LLC and Bridgestone Americas, Inc.'s Motion for Leave to File Third Party Complaint [#107]. Defendants seek to leave to file a third party complaint against Emmons Sawmill, LLC, Mr. Emmons' employer at the time he sustained the injuries. Defendants seek to assert claims of indemnification and contribution against Emmons Sawmill and filed their motions within the June 1, 2011 deadline for joinder of parties set out in the Case Management Order [#90].

Plaintiffs filed response in opposition to Defendants' Motions asserting leave should not be granted. Plaintiffs argue I do not have subject matter jurisdiction over the claims Defendants seek to assert against Emmons Sawmill because Workers' Compensation Law provides the exclusive

remedy against employers for covered injuries. Plaintiffs also argue I should not grant Defendants' Motions because the claims Defendants seek to assert against Emmons Sawmill are contrary to Missouri law. The defenses of lack of subject-matter jurisdiction and failure to state a claim upon which relief can be granted would be more properly asserted in a motion by Emmons Sawmill under Rule 12(b). As a result, I will not reach the merits of Plaintiffs' arguments at this time and will grant Defendants' Motions for Leave to File a Third Party Claim [#105 and #107].

Accordingly,

IT IS HEREBY ORDERED that Defendants Goodyear Tire & Rubber Company and Hayes Lemmerz International, Inc's Motion for Leave to File Third Party Complaint [#105] and Defendants Bridgestone Americas Tire Operations, LLC and Bridgestone Americas, Inc.'s Motion for Leave to File Third Party Complaint [#107] are **GRANTED**.

IT IS FURTHER ORDERED that the Case Management Order entered in this case is **VACATED**.

IT IS FURTHER ORDERED that an Amended Rule 16 Conference is set to be held on **Monday, September 19, 2011 at 9:30 a.m.** in my chambers at the Rush Hudson Limbaugh, Sr., United States Courthouse, 555 Independence St., Cape Girardeau, Missouri 63701.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

Dated this 7th day of July, 2011.